

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SHELIA M. BOLAR,

Plaintiff,

vs.

JOSEPH HUNTER, et al.,

Defendants.

8:17CV72

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's Notice of Appeal ([Filing No. 10](#)), filed on June 21, 2017. Plaintiff appeals from the court's May 4, 2017, Judgment ([Filing No. 9](#)) and Memorandum and Order ([Filing No. 8](#)), in which the court dismissed this matter without prejudice.

Plaintiff was previously granted leave to proceed in forma pauperis in this matter ([Filing No. 7](#)). As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding

The court finds that because Plaintiff proceeded IFP in the district court, she may now proceed on appeal in forma pauperis without further authorization.

Pursuant to [Fed. R. App. P. 4\(a\)\(1\)\(A\)](#), Plaintiff had 30 days after entry of the Judgment, or until June 5, 2017, to file the Notice of Appeal. Plaintiff states in the Notice of the Appeal that she did not receive the court's mailing until after that date, and that she then tried mailing the Notice of Appeal twice without success from the main post office in Omaha. This unverified statement is not credible, nor is it consistent with what Plaintiff previously told the clerk of the court on June 7, 2017, when she phoned to say that she had mailed the Notice of Appeal two weeks earlier and indicated she would bring her copy to the clerk the next day. (See Docket Sheet entry.)

The court finds that Plaintiff has not made a sufficient showing of excusable neglect or good cause for an extension of time under [Fed. R. App. P. 4\(a\)\(5\)\(A\)\(ii\)](#). In all other respects, however, the appeal appears to be taken in good faith.

IT IS THEREFORE ORDERED that:

1. Plaintiff may proceed in forma pauperis on appeal.
2. The court finds that the Notice of Appeal was not timely filed and that Plaintiff has not made a sufficient showing of excusable neglect or good cause to permit the granting of an extension of time.
3. The clerk's office shall provide the Eighth Circuit Court of Appeals with a copy of this order.

Dated this 23rd day of June, 2017.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge